THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 53

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte OLE K. NILSSEN

Appeal No. 1996-3399
Application 08/295,150[1]

ON BRIEF

Before THOMAS, BARRETT and HECKER, Administrative Patent Judges.

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[1] Application for patent filed August 24, 1994. This appli- cation is a continuation of Application Serial No. 07/401,475, filed August 29, 1989, pending; which is a contin- uation of Application Serial No. 06/709,932, filed March 8, 1985, abandoned.

THOMAS, Administrative Patent Judge.

DECISION ON APPEAL

Appellant has appealed to the Board from the examiner's final rejection of claims 49 through 60, the examiner having indicated the allowance of claim 37.

Representative claim 49 is reproduced below:

49. An arrangement comprising:

In a building having rooms and a main power supply system operative to distribute power line voltage from an ordinary electric utility power line to an ordinary household electrical outlet in each room; the power line voltage suffering from occasional periods of interruption; the improvement comprising:

an auxiliary power supply system having an auxiliary source of power operative to distribute an auxiliary voltage to a special power outlet in each room; each power outlet being operative to receive and disconnectably hold a special power plug; the maximum amount of power extractable from any one of the special power outlets being limited so as to be safe from fire initiation hazard; the auxiliary power supply system being further characterized by providing the auxiliary voltage during said periods of interruption as well as during other periods.

The following references are relied on by the examiner:

Attema	3,771,103	Nov. 6, 1973

Powell	4,140,959	Feb. 20, 1979
Ebert, Jr. (Ebert)	4,241,261	Dec. 23, 1980
Marez et al. (Marez)	4,315,304	Feb. 9, 1982
Rumble	4,543,624	Sept. 24, 1985 (filed Aug. 17, 1982)

The grandparent application was the subject of Appeal No. 88-2771, decided on May 31, 1989 of which a decision on a request for reconsideration was issued on July 27, 1989. The parent application to the present application was also the subject of Appeal No. 94-0197, the decision of which was issued on November 23, 1993.

From our study of the final rejection in this application and the examiner's answer, the examiner has rejected all claims on appeal, claims 49 through 60, under the enablement provision of the first paragraph of 35 U.S.C. § 112. Appellant mischaracterizes this rejection as being based upon a lack of support. Next, claims 49, 52, 56 and 58 stand rejected under the second paragraph of 35 U.S.C. § 112 as being indefinite. Finally, claims 49 through 60 (as expressed

at pages 8 through 11 of the examiner's answer, claims 59 and 60 are also a part of this rejection) stand rejected under 35 U.S.C. § 103. As evidence of obviousness, the examiner relies upon the collective teachings and showings of Powell, Rumble, Ebert, Attema and Marez.[2]

Rather than repeat the positions of the appellant and the examiner, reference is made to the briefs and the answers for the respective details thereof. These include the principal examiner's answer mailed on April 22, 1996 as well as a supplemental answer mailed on November 1, 1996. Appellant's initial brief was filed on January 22, 1996 with a so-called addendum to the appeal brief filed on June 10, 1996. Finally, we have also considered appellant's second addendum to the appeal brief filed as a facsimile communication on

[2] At page 12 of the answer, the examiner has withdrawn a rejection of certain claims under the fourth paragraph of 35 U.S.C. § 112. At pages 6 and 12, the examiner has also made note of the withdrawal of another rejection under 35 U.S.C. § 103, that being based upon the references to Cullen [sic, Callen], Elms and Rumble.

August 15, 1996, which bears no official paper number in the file wrapper. A supplemental appeal brief filed on February 22, 2000 does not bear on the merits of the issues on the appeal.

OPINION

We reverse the rejection of claims 49 through 60 under the enablement provision of the first paragraph of 35 U.S.C. § 112. The examiner's basis of this rejection appears to focus upon page 6 of the specification as filed to the extent it relates to an obviousness miscalculation of a current value. The examiner complains that the corrected value is much higher than the applicant's cited safe limit of this current value. The

examiner is of the belief that this so-called safety limit provides the only basis for the recited safety features in many of the claims on appeal.

Appellant believes the examiner's view is that the specification provides no support for certain presently claimed features. With respect to this rejection at page 3 of the principal brief on appeal, appellant indicates and recognizes the error of the current value presented at page 6 and argues that the noted portion of page 6 of the specification as filed relates to unclaimed, electric shock safety features. Appellant even presents a proposed amendment to the specification at page 2 of the first addendum to the brief to correct the error in the current value listed at page 6 of the specification. It is noted, however, that this amendment is unnecessary since it was listed at page 1 of the amendment filed on July 24, 1995. It is thus apparent that there is no substantive basis or deficiency in the specification as filed to support the examiner's views that claims 49 through 60 are not enabled within the first paragraph of 35 U.S.C. § 112.

We next turn to the rejection of claims 49, 52, 56 and 58 under the second paragraph of 35 U.S.C. § 112. At page

7 of the answer, the examiner's view is that there is no antecedent

basis for the safety aspects of the claims relating to the recited claim feature of "fire-initiation hazard." Part of the examiner's reasoning there appears to be based upon the uncorrected current value at page 6 of the specification as filed just discussed in the context of the enablement rejection. We note again that the current value in the middle of page 6 has been corrected. On the other hand, appellant is of the view at page 3 of the first addendum to the appeal brief that the examiner appeared to him to be confused between the indefiniteness of the claim and the lack of support in the specification for the noted feature. For his part, the appellant has already noted at page 4 of the principal brief on appeal various portions of the specification which supported or discussed the safety aspects associated with the noted "fire-initiation hazard" of the claims on appeal. Furthermore, from our study of each independent claim on appeal, claims 49, 56 and 58 where this

feature appears, there appears to us to be no antecedent basis problem within the claims themselves or in the context of the disclosed invention. Therefore, we reverse the rejection of claims 49, 52, 56 and 58 under the second paragraph of 35 U.S.C. § 112.

Finally, we turn to the rejection of claims 49 through 60 under 35 U.S.C. § 103. Assuming for the sake of argument that
the teachings of the respective references of Powell, Rumble, Ebert, Attema and Marez are properly combinable within 35 U.S.C. § 103, we reverse the rejection.

The examiner's view at page 8 of the answer that Powell "discloses all aspects of claims 49, 56, and 58 except for the special outlets and power plugs recited in all three claims" is misplaced. Only independent claims 49 and 56 recite the special outlets and power plugs, independent claim 58 making no mention of either of them.

The examiner's view of Rumble appears to generally accurately characterize this reference's teaching that his electrical voltage converter, because it teaches of multiple geometries of various inlet pins, would have obviously suggested to the artisan various geometries of special room sockets as well. However, the collective teachings of Powell, Rumble, Ebert, Attema and Marez are incomplete as to one basic feature (to be discussed momentarily) common in each independent claim 49, 56 and 58 on appeal.

We observe that independent claim 56 is essentially identical to independent claim 49 except for the addition of language relating to the plurality of rooms in a building. The examiner's supplemental answer appears to attempt to address
appellant's arguments traversing this rejection found in the second addendum to the appeal brief. It appears to us that the examiner has not come to grips with various portions of this document relating to arguments of the appellant and certain features of the claims. None of the references relates to the feature most clearly recited in independent

claims 49 and 56 (and argued at page 3 of the second addendum to the appeal brief) that these claims recite an arrangement "whereby in each of plural rooms in a building, two different power outlets are provided: (i) one providing ordinary power line voltage from the local electric utility company; and (ii) one providing an 'auxiliary voltage' which will be present even during periods when no ordinary power line voltage is being supplied from the local electric utility company." As noted by appellant, this feature is not described or suggested in any of the applied references. The auxiliary power supply system of independent claims 49 and 56 requires special power outlets in each room as well as special power plugs. In contrast, the two separate systems of independent claim 58 do not require special power outlets and

plugs but do require special loads directly connected to the separate auxiliary power supply system claimed.

The examiner's earlier noted reliance upon Powell as

to the majority of the features of each independent claim is misplaced because Powell's system is clearly designed to supplement the normal electric power distribution network. Powell's abstract reveals that the supplemental system provides "power which is added to and utilized in the normal or primary electrical power distribution network." Similarly, the supplemental system "develops electrical energy which is stored for intermittent or periodic transfer into the primary power system."

The separateness of the power supplies of claims 49 and 56 is emphasized by the special power outlets and special power plugs in addition to the name of the separate systems being a main power supply system and an auxiliary power supply system. As to independent claim 58, there is recited a main power supply system as well as an auxiliary power system, the latter of which provides power to special loads recited in this claim. The other references relied upon by the examiner other than Powell do not make up for these noted deficiencies with respect to each independent claim 49, 56 and 58 on appeal. Therefore, we must reverse the rejection of each of

these independent claims as well as their respective dependent claims.

CONCLUSION

We have reversed the rejection of claims 49 through 60 under the first paragraph of 35 U.S.C. § 112 and the rejection of claims 49, 52, 56 and 58 under the second paragraph of 35 U.S.C. § 112. We have also reversed the rejection of claims 49 through 60 under 35 U.S.C. § 103. Therefore, the decision of the examiner rejecting various claims on appeal on various statutory bases is reversed.

REVERSED

JAMES D. THOMAS)
Administrative Patent Judge)
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) BOARD OF PATENT
LEE E. BARRETT) APPEALS AND
Administrative Patent Judge) INTERFERENCES

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STUART N. HECKER)
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